IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 217 of 1990

1. Shri Sadashiv Pandurang Petkar,
   deleted vide order on Exh.18
   dated 10th March, 1988.

2. Shri Jagannath Pandurang Petkar,

3. Shri Manohar Pandurang Petkar,

4. Shri Vishwanth Khandu Petkar,

5. Shri Vishwanath Khandu Petkar,

6. Shri Dhondi Khandu Petkar,

   Nos. 1, 2, 4 to 6 represented through
   their Vatmukhatyar Shri Manohar
   Pandurang Petkar,
   (Original claimants) .. **Appellants**

.. **Versus** ..

The Collector, Sangli. .. **Respondent**
(Original Opponent)

Mr. Umesh Mankapure, Advocate for the appellants,

Mr. Bharat Mehta, AGP for the respondent/State.

.....

Coram : K.J. Rohee, J.

Reserved on : 22nd March, 2006,

Pronounced on : 28th March, 2006.

Oral Judgment :

1. The appellants who are the owners of the land acquired by the State have come up in appeal against the judgment and award passed by the Civil Judge, Senior Division, Sangli in Land Acquisition Case No.8 of 1975 on 20.5.1988.

2. The appellants are the owners of land Survey No.224, measuring 6 Hector 63 R, land revenue Rs.2.16, situated at village Tasgaon, District Sangli. A preliminary Notification under section 4 of the Land Acquisition Act, 1894 in respect of several lands including 0.57 R out of land Survey no.224 was issued by the Commissioner, Pune Division on 3.11.1971. A declaration under section 6 of the

said Act was made by the Commissioner on 12.11.1973. In response to the notice under section 9, the appellants preferred their claim and prayed compensation at the rate of Rs.60,000/- per acre. After conducting necessary inquiry, the Special Land Acquisition Officer, No.II, Sangli delivered an Award on 31.3.1975 and compensation at the rate of Rs.5,000/- per acre was granted. Total compensation of Rs.8,193/- was granted to the appellants.

3. Since the appellants were not satisfied with the compensation granted, they moved the Collector, Sangli under section 18 of the Land Acquisition Act for making Reference to the Civil Court. According to the appellants, the land in question is situated within Tasgaon Municipal area and has been included in the Development Plan. It is situated near Municipal Naka and the Garden of Tasgaon Municipal Council. There is residential locality just near the land in question. The land in question has got non-agricultural potential value. Because of the acquisition the appellants' land is divided into two pieces and due to

severance, the fertility of the land is minimized. According to the appellants compensation at the rate of Rs.1,000/- to Rs.1,500/- per guntha should have been awarded. The appellants submitted that compensation of at least Rs.40,000/- should be granted for 0.57 gunthas of land. The appellants submitted that they have restricted their claim as they are unable to pay more court fee stamp. It was contended that the Land Acquisition Officer has not properly taken into consideration all these aspects.

4. The respondent resisted the claim by its written statement. The respondent submitted that the compensation awarded by the Land Acquisition Officer is proper and adequate and the Award has been passed after considering all the material facts and circumstances. The claim of the appellants is exorbitant and excessive. The appellants have no right to claim anything more than the amount of compensation awarded. The respondent submitted that the claim of the appellant is liable to be rejected.

5. The appellants examined one of the claimants

holding power of attorney for the remaining claimants. The appellants have also filed certain documents. The respondent did not adduce any evidence. After considering the evidence adduced by the appellants, the learned Civil Judge, Senior Division, Sangli found that the price fixed by the Land Acquisition Officer at the rate of Rs.5,000/- per acre i.e. Rs.125/- per guntha is too low and meager. In the opinion of the learned Civil Judge, Senior Division, Sangli fixing the price at the rate of Rs.500/- per guntha i.e. Rs.20,000/- per acre would meet the ends of justice. He accordingly granted enhanced compensation.

6. Being dissatisfied with the Judgment and Award of the Reference Court, the claimants have preferred this appeal claiming more compensation.

7. I have heard Mr. Umesh Mankapure, Advocate for the appellants/claimants and Mr. Bharat Mehta, AGP for the respondent/State.

8. It was urged by the learned counsel for the

appellants/claimants that ample evidence has been adduced by the appellants about the market price of the surroundings land. The learned Reference Court has not taken into consideration the said price. The appellants have established that the land in question is an irrigated land and has residential potential. However, this aspect has not been considered by the Reference Court. The Reference Court fixed the price at the lower side.

9. The learned AGP appearing for the respondent/State, on the other hand, justified the impugned judgment and award.

10. I have carefully considered the rival contentions. I have gone through the evidence adduced by the appellants/claimants. The Reference Court has taken assistance of one transaction which is dated 11.9.1971 and another which is dated 18.3.1972. The first transaction was just before the Notification under section 4 and the second transaction was just before declaration under section 6. In the first transaction the price that was fetched by land in

Gat No.217 was Rs.1,400/- per guntha and in the second transaction the price that was fetched by land in Gat No.562 was Rs.2,100/- per guntha. Considering these transactions the Reference Court found that the rate of Rs.5,000/- per acre i.e. Rs.125/- per guntha was too low and meager and he, therefore, fixed the rate at Rs.500/- per guntha i.e. Rs.20,000/- per acre. It is not necessary that the Reference Court should have granted the same price to the land in question which was fetched by the surroundings land. From the evidence of the claimants it is apparent that certain land in survey no.224 was sold by them long after acquisition and the said land was sold by fixing the price per square foot. Obviously those transactions cannot be taken as basis for grant of compensation. Under the circumstances of the case the price fixed by the Reference Court does not appear to be unreasonable.

11. In view of the above circumstances, I see no reason to interfere with the Judgment and Award delivered by the Reference Court. Hence the order :

12. The appeal is dismissed with no order as to costs.

(K. J. Rohee, J.)

asg